

United States District Court  
District of Massachusetts

Jennaya Bennett-Werra  
AKA James Bennett-Werra  
Plaintiff

V.

C.A. No. 20-10017 -ADB

Steven Tompkins, Yolanda Smith,  
Zezinha Mitchell, Jennifer Sullivan,  
Christina Ruccio, and Naphcare  
Defendants

Amended Complaint

Preliminary Statement

- 1.) I, Jennaya Bennett-Werra (Plaintiff) brings here this Action against Steven Tompkins, Yolanda Smith, Zezinha Mitchell, Jennifer Sullivan, Christina Ruccio, and Naphcare, (Defendants) who have discriminated against me on the basis of my disability and gender.
- 2.) This Action arises under the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, et seq.; The Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq.; The Civil Rights Act 42 U.S.C. § 1983 ; The Prison Rape Elimination Act of 2000, 42 U.S.C. § 15601, et seq. ; The Fourteenth Amendment to the United States Constitution such as the The Equal Protection clause and the Due Process clause.

FILED  
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2020 APR -7 PM 11:13  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

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Jennaya Bennett-Werra  
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C.A. No. 20-10017 -ADB

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Defendants

I. Parties to This Complaint

3.) Plaintiff

Jennaya Bennett-Werra  
AKA James Bennett-Werra  
Suffolk County House of Correction  
20 Bradston St  
Boston, MA 02118

4.) I, Jennaya Bennett-Werra am incarcerated at the Suffolk County House of Correction. I have been held at this facility since April 10, 2019.

5.) Defendants are all involved and responsible for the overall administration of Suffolk County House of Corrections located at 20 Bradston St Boston, MA 02118. Defendants are a public entity within the meaning of the ADA.

6.) Defendant Steven Tompkins was at all relevant times the Sheriff of Suffolk County and responsible for the overall administration of Suffolk County HOC. As well as the training of all Suffolk County HOC staff. This suit is brought against Steven Tompkins in his official capacity.

7.) Defendant Yolanda Smith at all relevant times was the superintendent and the PREA coordinator at Suffolk County HOC and is responsible for the day to day administration of Suffolk County HOC. This suit is brought against the defendant in her official capacity.

8.) Defendant Zezinha Mitchell was at all relevant times the Assistant Deputy Superintendent in charge of Classification at Suffolk County HOC and is responsible for

reviewing and rendering decisions on the housing accommodations at Suffolk County HOC. This suit is brought against defendant Zezinha Mitchell in her official capacity.

9.) Defendant Jennifer Sullivan at all relevant times was the Grievance Coordinator at Suffolk County HOC and is responsible for rendering on all grievance forms filed by inmates at Suffolk County HOC. This suit is brought against defendant Jennifer Sullivan in her official capacity.

10.) Defendant Christina Ruccio at all relevant times was the Director of Women's Programming at Suffolk County HOC and is responsible for the day to day administration of women's programming. This suit is brought against the defendant Christina Ruccio in her official capacity.

11.) Defendant Naphcare was at all relevant times contracted by Suffolk County HOC for the provisions of health services to all inmates held at Suffolk County HOC. This suit is brought against defendant Naphcare.

**II. Basis for Jurisdiction**

12.) This court has Jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1343, and 1367. Many of my claims arise under federal law, including the ADA, 42 U.S.C. § 12101 et seq.; The Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq.; The Civil Rights Act, 42 U.S.C. § 1983; The Prison Rape Elimination Act of 2000, 42 U.S.C. § 15601, et seq.; and The Fourteenth Amendment to the United States Constitution such as The Equal Protection clause and the Due Process clause. Venue is proper in this District under 28 U.S.C. § 1391

### **III. Statement of Claim**

13.) I, Jennaya Bennett-Werra, born August 22, 1997, am a Transgender Female. I began my transition and have been living as a female about 3 years ago. I have been diagnosed with gender dysphoria. I began hormone treatments on November 1, 2018. My name was legally changed from James Bennett-Werra to Jennaya Bennett-Werra on November 22, 2019. My gender marker with the Massachusetts RMV also reflects my gender identity as a female.

14.) I arrived at Suffolk County HOC on April 10, 2019. I have been requesting to be housed on a female unit since the time I arrived at Suffolk County HOC. I have spoken to my case worker, mental health worker, the classification team at Suffolk County HOC, ADS/Major of Classification Zezinha Mitchell, Superintendent Yolanda Smith and many others, all of whom have denied my request to be housed on a female unit. The reasons they give me for denying my request are simply put as "male parts, male unit" or "we currently do not mix different genders at this facility." The Defendants have refused to treat me the same as the other women housed at the jail. I feel extremely discriminated against, causing my dysphoria around my gender identity to worsen.

15.) I have filed two grievances for the continued denial of my request to be housed on a female unit, both were denied. I then appealed the denied grievances on July 3, 2019. Superintendent Yolanda Smith met with me in person on July 10, 2019 on Unit 182 (a male protective custody unit where I was being housed at the time) in regards to my grievance appeal forms. She again denied my request to be housed on a female unit. Yolanda Smith did agree to allow me to attend women's programming, which I attended for the first time on July 26, 2019.

16.) On July 29, 2019, I appeared in Fall River Superior Court, I requested the Judge issue a recommendation for me to be housed with same gender identity inmates. The judge granted my request and issued the recommendation on that date. On July 30, 2019, I met with ADS/Major of Classification Zezinha Mitchell and informed her of the judge's recommendation. Zezinha Mitchell told me that she would call Superintendent Yolanda Smith. Zezinha Mitchell then came back to me about 20 minutes later and said to me "we can't mix genders at this time." She then said, "you have two options: you can remain on Unit 182 and continue to attend women's programs or we can send you back to Bristol County." I chose to stay at Suffolk County HOC due to the safety risks I'd be facing if I went back to Bristol County. I also informed Zezinha Mitchell that she was discriminating against me and that I would be filing in federal court.

17.) On August 2, 2019 at approximately 1:05 pm, Yolanda Smith and Zezinha Mitchell met with me again on Unit 182 regarding my statement to Zezinha Mitchell on July 30, 2019 about filing in federal court. Yolanda Smith informed me that she would send me back to Bristol County

before allowing me to file. Yolanda Smith continues to deny my request to be housed on a female unit. When I asked her why I could not be house on a female unit, she told me that she did not have to disclose that information to me.

18.) I have voiced my concerns of being housed on a male unit in general but especially on Unit 182, the male protective custody unit, many times with my mental health worker, case worker, and Zezinha Mitchell. I have also written grievances about it. Housing me on Unit 182 makes me extremely uncomfortable due to the fact that I am a woman being forced to live and eat around men and some of these men are on Unit 182 for sexual crimes. Having been the victim of sexual assault before makes this living situation extremely unbearable. It has made my depression, anxiety, and dysphoria worse. I am living in constant fear of being physically assaulted, both sexually and violently due to the fact that I am a woman on this male unit. In fact, on September 8, 2019 I was sexually assaulted on Unit 182 by a male inmate. I reported this to Suffolk County HOC staff. I was then moved to Unit 151 after the investigation was concluded. It was found by Suffolk County HOC's Special Investigations Division that my statements were true. Unit 151, where I am currently housed is still a male protective custody unit and some of these men have been convicted of sexual crimes.

19.) When I was housed on Unit 3-3 (a male general population unit) I was threatened with physical violence by many of the male inmates housed there. I informed the unit officer and I was moved to a segregation unit (1-3-1) for about 3 days pending a classification hearing at which I again, requested to be housed on a female unit. My request was again denied and I was moved to unit 182.

20.) I have also requested to be better accommodated medically for my gender dysphoria diagnosis. Specifically electrolysis. I have submitted two "sick call slips" and a grievance. All of which gave me a response of "not medically indicated." Electrolysis is a necessary medical procedure for transgender women because without it the patient cannot move forward with thier gender transition and thier gender reassignment surgery. Also having to live as women with male body hair and facial hair triggers dysphoric thoughts and depression. Electrolysis is part of the standards of medical care set for by WPATH (World Professional Association for Transgender Health).

21.) In short, I am a woman being forced to eat and live with men and without appropriate or reasonable accommodations that I need for the treatment of my gender dysphoria.

22.) I therefore bring claims for violations of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.; The Rehabilitations Act of 1973, 29 U.S.C. § 701, et seq.; The Civil Rights Act , 42 U.S.C. 1983; The Equal Protection clause and the Due Process clause of the Fourteenth Amendment to the United States Constitution; and the equality and due process guarantees secured by Part 1, Articles I and VII, among others, of the Massachusetts Constitution; and Articles 106 and 114 of the Massachusetts Constitution: as well as the Prison Rape Elimination

Act of 2000, 42 U.S.C. § 15601, et seq. I am seeking injunctive relief, attorney's and court fees, and all other appropriate relief.

#### **Factual Allegations. Gender Dysphoria & Treatment**

23.) Gender Dysphoria, as defined by the Fifth Edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-V), is a medical condition in which there is a marked incongruence between one's experienced or expressed gender and one's assigned sex at birth, lasting for at least six months and manifested through at least two of the following:

- a.) A marked incongruence between one's experienced/expressed gender and primary and or secondary sex characteristics.
- b.) A strong desire to be rid of one's primary and or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender.
- c.) A strong desire for the primary and or secondary sex characteristics of the other gender.
- d.) A strong desire to be of the other gender (or some alternative gender different from one's assigned gender)
- e.) A strong desire to be treated as other gender (or some alternative gender different from one's assigned gender)
- f.) A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender).

24.) A person with gender dysphoria experiences clinical distress from having a gender identity, an internalized sense of being male or female, that is different than his or her's assigned sex and gender at birth.

25.) Gender Dysphoria is associated with high levels of stigmatization, discrimination, and victimization. The isolation of and discrimination experienced by someone with Gender Dysphoria often leads to negative self-esteem, increased risk of mental disorders, and comorbidity, i.e. suffering from another disease or disorder.

26.) Individuals suffering from Gender Dysphoria often experience severe psychological harm and suffering. Including anxiety, depression, and or thoughts of suicide.

27.) Gender Dysphoria, is however, highly treatable.

28.) Treatment protocol for Gender Dysphoria, as recommended by the American Psychological Association (APA), includes "counseling, cross sex hormones, gender reassignment surgery, and social and legal transition to the desired gender." Going through a "gender transition" or "transition" is the medical process of changing one's body from that typically associated with his or her assigned sex at the time of their birth to that typically associated with the person's gender identifications.

## **Causes of Action**

### **Count One: ADA- Discrimination/Failure to Accommodate**

fully 29.) I incorporate by reference the preceding paragraphs of my complaint as though set forth herein.

30.) Defendants violated the ADA 42 U.S.C. § 12101, et seq., by discriminating against me on the basis of my disability. The discrimination includes but is not limited to:

- a.) Refusing to house me on a female unit at Suffolk County HOC. Defendants have refused to do so even though I am a woman and have a female gender identity.
- b.) Refusing to reprimand staff who fail to appropriately accommodate, treat, and communicate with individuals with gender dysphoria.
- c.) Refusing to reprimand staff who fail to use female pronouns when addressing or referring to me.
- d.) Refusing to treat me the same as all other women housed at Suffolk County HOC
- e.) Denying me access to electrolysis as is a necessary medical procedure for Transgender woman.

31.) Defendants violated the ADA by failing to provide me with the aforementioned reasonable accommodations.

32.) None of my requested accommodations “would materially impair the safe and efficient operation of the program, present a safety hazard to the individual inmate or staff, threaten the security of the correctional institution/facility, or would otherwise cause undue hardship in the operation of the institution/facility. 103 DOC 207.01

33.) Nor would any of my requested accommodations “fundamentally alter the nature of [any] service, program, or activity.” 28 C.F.R. § 35.130 (b)(7).

34.) Defendant’s actions and failure to accommodate my attempts to alleviate the stresses caused by my Gender Dysphoria have caused me to suffer from increased depression and anxiety and have impaired my ability to participate in basic life



activities.

**Count Two: Rehabilitation Act- Discrimination/failure to Accommodate**

35.) I incorporate by reference the preceding paragraphs of my complaint as though fully set forth herein.

36.) Defendants violated The Rehabilitation Act of 1973. 29 U.S.C. § 701, et seq. by discriminating against me on the basis of my disability.

37.) Defendants discriminatory actions and failure to accommodate my attempts to alleviate the stresses caused by my gender dysphoria have caused me to suffer from depression and anxiety and have impaired my ability to participate in basic life activities. Defendants act's in violation of the Rehabilitation Act include:

- a.) Refusing to house me on a female unit at Suffolk County HOC. Defendants have refused to do so even though I am a woman and have a female gender identity.
- b.) Refusing to reprimand staff who fail to appropriately accommodate, treat, and communicate with individuals with gender dysphoria.
- c.) Refusing to reprimand staff who fail to use female pronouns when addressing or referring to me.
- d.) Refusing to treat me the same as all other women housed at Suffolk County HOC
- e.) Denying me access to electrolysis as is a necessary medical procedure for Transgender woman.

38.) Defendant' actions and failure to accommodate my attempts to alleviate the stresses caused by my gender dysphoria have caused me to suffer from depression and anxiety and have impaired my ability to participate in basic life activities.

**Count Three: Fourteenth Amendment of the Constitution of the United States-Equal Protection Clause**

39.) I incorporate by reference the preceding paragraphs of my complaint as though fully set forth herein.

40.) Defendant's acting under color of state law have violated my rights under The Equal Protection Clause of the Fourteenth Amendment by impermissibly discriminating against

me on the basis of my sex, gender identity, transgender status, and disability.

41.) Defendant's actions have caused me to suffer from depression and anxiety and have impaired my ability to participate in basic life activities.

**Count Four: Fourteenth Amendment of the United States Constitution: Due Process Clause**

42.) I incorporate by reference the preceding paragraphs of my complaint as though fully set forth herein.

43.) The Due Process Clause of the Fourteenth Amendment prohibits state government from depriving individuals of their property or liberty interests without due process of law. The Due Process Clause of the Fourteenth Amendment requires, at a minimum, that government actions have some rational basis. Defendant's placement of me in a men's unit at Suffolk County HOC and disregard of the fact that I am a woman and have a Female gender identity is irrational. Defendant's treatment of me also impermissibly burdens my fundamental rights to autonomy and privacy, including my right to live as a woman consistent with my female gender identity as set forth above, Defendants have Violated the Due Process Clause of the Fourteenth Amendment.

44.) Defendant's actions have caused me to suffer from depression and anxiety and have impaired my ability to participate in basic life activities.

**Count Five: Massachusetts Constitution-Pt 1, Articles I and VII among others**

45.) I incorporate by reference the preceding paragraphs of my complaint as though fully set forth herein.

46.) Defendant's placement of me in a men's unit at Suffolk County HOC and disregard Of the fact I am a woman and have a female gender identity is in violation of my rights, Including my Due Process rights under the Declaration of Rights, Articles I and VII among others, of the Massachusetts Constitution.

47.) Defendant's actions have caused me to suffer from depression and anxiety and Have Impaired my ability to participate in basic life activities.

**Count Six: Massachusetts Constitution Article 106**

48.) I incorporate by reference the preceding paragraphs of my complaint as though fully set forth herein.

49.) Defendant's violated Article 106 of the Massachusetts Constitution by discriminating

against me on the basis of my Transgender status, gender identity, and my sex.

Specific violations include:

- a.) Refusing to house me on a female unit at Suffolk County HOC. Defendants have refused to do so even though I am a woman and have a female gender identity.
- b.) Refusing to reprimand staff who fail to appropriately accommodate, treat, and communicate with individuals with gender dysphoria.
- c.) Refusing to reprimand staff who fail to use female pronouns when addressing or referring to me.
- d.) Refusing to treat me the same as all other women housed at Suffolk County HOC
- e.) Denying me access to electrolysis as is a necessary medical procedure for Transgender woman.

50.) Defendant' actions and failure to accommodate my attempts to alleviate the stresses caused by my gender dysphoria have caused me to suffer from depression and anxiety and have impaired my ability to participate in basic life activities.

**Count Seven: Massachusetts Constitution Article 114**

fully 51.) I incorporate by reference the preceding paragraphs of my complaint as though set forth herein.

52.) Defendants violated Article 114 of the Massachusetts Constitution by discriminating against me on the basis of my gender identity and my disability, Gender Dysphoria. Specific violations include:

- a.) Refusing to house me on a female unit at Suffolk County HOC. Defendants have refused to do so even though I am a woman and have a female gender identity.
- b.) Refusing to reprimand staff who fail to appropriately accommodate, treat, and communicate with individuals with gender dysphoria.
- c.) Refusing to reprimand staff who fail to use female pronouns when addressing or referring to me.
- d.) Refusing to treat me the same as all other women housed at Suffolk County HOC
- e.) Denying me access to electrolysis as is a necessary medical procedure for Transgender woman.

53.) Defendant' actions and failure to accommodate my attempts to alleviate the Stresses caused by my gender dysphoria have caused me to suffer from depression and anxiety and have impaired my ability to participate in basic life activities.

**Count Eight: 42 U.S.C. § 1983 Violation of Civil Rights**

54.)I incorporate by reference the preceding paragraphs of my complaint as though fully set forth herein.

55.) Defendants are "persons" under 42 U.S.C. § 1983 who acted " under the color of state law" and deprived me of my rights secured by the United States Constitution. Specific violations include:

- a.)Refusing to house me on a female unit at Suffolk County HOC. Defendants have refused to do so even though I am a woman and have a female gender identity.
- b.) Refusing to reprimand staff who fail to appropriately accommodate, treat, and communicate with individuals with gender dysphoria.
- c.) Refusing to reprimand staff who fail to use female pronouns when addressing or referring to me.
- d.) Refusing to treat me the same as all other women housed at Suffolk County HOC
- e.) Denying me access to electrolysis as is a necessary medical procedure for Transgender woman.

56.) Defendant's actions have caused me to suffer from depression and anxiety and have impaired my ability to participate in basic life activities.

**Count Nine: Prison Rape Elimination Act of 2000 42 U.S.C. § 15601 et seq. And its implementing regulations, 28 C.F.R. Pt. 115**

57.) I incorporate by reference the preceding paragraphs of my complaint as though fully set forth herein.

58.) Defendants have violated the Prison Rape and Elimination Act of 2000 42 U.S.C. § 15601 et seq. And its implementing regulations, 28 C.F.R. Pt. 115 by failing to prevent and detect sexual assault and sexual harrassment. Specific violations include:

a.) Refusing to house me on a female unit at Suffolk County HOC. Defendants refused to do so even though I am a woman and have a female gender identity.

Defendants knowingly housed me on a men's unit even though there is a high risk of me being a victim of sexual abuse.

b.) Defendants failed to make available a victim advocate from a rape crisis center or a qualified staff member from a community based organization after learning that I had been victimized of sexual abuse.

c.) Defendants failed to use the PREA screening process in assessing my housing Accommodation.

d.) Defendants have failed to keep separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

e.) Defendants have failed to use the PREA screening process in deciding whether to assign a Transgender or intersex inmate to a unit/facility for male or female Inmates. Defendants fail to consider on a case by case basis whether a placement would present management or security problems.

f.) Defendants have failed to give serious consideration of a transgender inmate's Own views with respect to his or her own safety.

g.) Defendants have failed to reassess each transgender inmates placement and programming at least twice per year to review any threats to safety experienced by the inmate.

59.) Defendants in their official capacity have subjected me to sexual assault and harassment and have knowingly placed me in situations where I would be at high risk of being sexually victimized.

60.) Defendant's actions and failure to accommodate my requests have caused me to suffer from depression and anxiety and have impaired my ability to participate in basic life activities.

#### **Additional Experiences at Suffolk County HOC**

61.) I constantly face discrimination from the male inmates with whom I am housed, as men are not as accepting as women. I am constantly misgendered by male inmate and staff at Suffolk County HOC because I am housed on a male unit.

62.)When I attend women's programming I am asked why I'm wearing a red uniform as women do not wear red uniforms and other women recognize me as another woman. I suffer from anxiety and depression every time I am forced to explain why I have to wear a red uniform. If I were housed on a women's unit originally, I would not be subjected to questions about my gender. I have been attending all women's programs, library time, and gym/yard time with no security, safety, or management issues. I would not present a management, safety, or security risk or problem if I were to be housed on a women's unit.

63.)On September 5, 2019, Defendant Christina Ruccio did discriminate against me in an incident where a female inmate handed me a letter to give to a male inmate who was housed on the same unit as I, at the time. The female inmate and I, were both given disciplinary reports and Christina Ruccio took away my programs for a week. But she did not do the same for the other female inmate. I filed a grievance about this discrimination against me as Christina Ruccio did not treat myself and the other inmate the same. My grievance was denied.

**IV. Prayer For Relief**

Wherefore, I respectfully pray that this court:

A.) Enter judgement in favor of Plaintiff against defendants on each of the counts in this complaint.

B.) Issue injunctive relief against Defendants, ordering Defendants not to discriminate against me on the basis of my transgender status, my gender identity, my sex, and/or my disability. including but not limited to ordering Defendants to:

1. Treat me the same as all other female inmates held by Suffolk County HOC
2. House me on a women's unit at Suffolk County HOC
3. Discipline all Suffolk County HOC staff who fail to appropriately accommodate, treat, and communicate with individuals with gender dysphoria.
4. Refer to me by my chosen and legal female name
5. Use only female pronouns when speaking to or about me.
6. Provide me with access to electrolysis and to follow the standards of care for treatment of gender dysphoria established by the World Professional Association for Transgender Health (WPATH)
7. Award me my reasonable costs and expenses of this Action including but not limited to any attorney fees.
8. Compensatory damages in the amount of \$500 per day while being housed with male inmates.
9. Punitive damages in the amount of \$1,000,000.00 for the Defendants egregious actions and inactions in this matter.
10. A public apology and an order to prevent any and all future harm to myself and other Transgender inmates.
11. Award me with pain and suffering damages for mental health purposes in the amount of \$850 per day while being housed with male inmates.
12. Grant such other and further relief as this honorable court considers just and proper.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

4/5/2020

Signature of Plaintiff:

Jennaya Bennett-Werra

Printed Name of Plaintiff

Jennaya BENNETT-WERRA



**PRISONERS' LEGAL SERVICES OF MASSACHUSETTS**

✉ 50 Federal Street, 4th Floor • Boston, MA 02110

🌐 [www.plsma.org](http://www.plsma.org)

📱 [fb.me/prisonerslegalservices](https://fb.me/prisonerslegalservices)

✉ @PLSMA

☎ Main: 617-482-2773

☎ Fax: 617-451-6383

State prisoner speed dial: 9004 or 9005 • County prisoner collect calls: 617-482-4124

PLS

October 2, 2019

Yolonda Smith  
Superintendent  
South County HOC  
20 Bradston Street  
Boston, MA 02118

COPY

**Re: Jennaya Bennett-Werra, 183905**

Dear Superintendent Smith:

I am writing on behalf of Jennaya Bennett-Werra, who is incarcerated at Suffolk County HOC.

Ms. Bennett-Werra identifies as female and has been prescribed hormones by her providers at the jail. She reports she is taken to programs with other female prisoners and goes to the library with female prisoners. She reports there have been no issues during the time she is with female prisoners.

Ms. Bennett-Werra reports that Suffolk county officials will not house her with other females as stated in the Criminal Justice Reform Act (CJRA). Mass. Gen. Laws Ann. ch. 127, § 32A provides:


A prisoner of a correctional institution, jail or house of correction that has a gender identity, as defined in section 7 of chapter 4, that differs from the prisoner's sex assigned at birth, with or without a diagnosis of gender dysphoria or any other physical or mental health diagnosis, shall be: (i) addressed in a manner consistent with the prisoner's gender identity; (ii) provided with access to commissary items, clothing, programming, educational materials and personal property that is consistent with the prisoner's gender identity; (iii) searched by an officer of the same gender identity if the search requires an inmate to remove all clothing or includes a visual inspection of the anal cavity or genitals; provided, however, that the officer's gender identity shall be consistent with the prisoner's request; and provided further, that such search shall not be conducted for the sole purpose of determining genital status; and (iv) housed in a correctional facility with inmates with the same gender identity; provided further, that the placement shall be consistent with the prisoner's request, unless the commissioner, the sheriff or a designee of the commissioner or sheriff certifies in writing that the particular

placement would not ensure the prisoner's health or safety or that the placement would present management or security problems.

Ms. Bennett-Werra reports she has consistently made requests to be housed with members of her own gender but this request has not been granted. Please grant Ms. Bennett-Werra a transfer to the women's unit at Suffolk County.

I am seeking releases signed by Ms. Bennett-Werra. I will forward the releases when I receive them. I look forward to your response to Ms. Bennett-Werra's housing needs and this letter.

Sincerely,



Al Troisi  
Paralegal

# Suffolk County Sheriff's Department Grievance Form

TODAY'S DATE: 7-2-14 DATE / TIME INCIDENT: 6-27-14 / 12-1-14 LOCATION OF INCIDENT: 1-P-2

HOUSING UNIT: 1-P-2 NAME: Tamara Bennett-Walker BOOKING #: 1400435

Per Policy S491, your grievance will be returned if you do not indicate with whom you have attempted to resolve this issue.

☐ Emergency Check this box only if your grievance involves an issue for which the delay in resolution may cause a substantial risk of personal injury or other damages.

## Describe the grievance, be specific, include names and dates

I have filed 2 med SLIPS asking to be better Accommodated with the treatment required by my gender Dysphoria. I asked to be given the chance to see an electroanalyst to have a laser hair removal procedure in treating people with gender Dysphoria because if you don't have the laser hair removal done one can not have the sex reassignment surgery. On both of my med SLIPS they give a response of "Not Medically indicated" but it is.

SUGGESTED REMEDY: I would like to be better Accommodated medically for my gender Dysphoria and ~~also~~ get the chance to see an electroanalyst to have a laser hair removal.

Inmate signature Tamara Bennett-Walker Date 7-2-14

## DO NOT WRITE BELOW THIS LINE

Report Number: <u>G190446</u>	Decision: <input checked="" type="checkbox"/> RETURNED	COMMENTS (IF REFERRED, specify to whom and why):
Date Received: <u>7-3-14</u>	<input type="checkbox"/> DENIED	
Appeal Date: _____	<input type="checkbox"/> RESOLVED	
	<input type="checkbox"/> REFERRED	
REASON(S) FOR DECISION: <u>See attached med SLIP dated 6/27/14 &amp; 7/1/14</u>		

Institutional Grievance Coordinator: [Signature]

Date: 7-5-14

You may appeal the decision of the IGC to the Superintendent within (10) dates if the decision. Only the official Inmate Grievance Appeal Form will be accepted. The Superintendent's decision is final.



Suffolk  
20 Bradston Street  
Boston, MA 02118

7/5/2019 11:24:21 AM Eastern Daylight Time

Patient: BENNETT-WERRA, JAMES  
DOB: 8/22/1997 (Age=21)  
Housing: HOC-1-08-2-14-A  
Status: ACTIVE

#: (165359) 1902435

Sex: M

SSN: \*\*HIDDEN\*\*

Booking Date: 4/10/2019 1:21:00 PM Eastern Daylight Time

PICTURE  
NOT AVAILABLE

Lang:

Race: W

Type:

Release:

### Grievance

Date Of Grievance:  
6/27/2019

Date Received:  
7/3/2019

Date of Response:  
7/4/2019

Closed

### Grievance Types:

Dissatisfied with quality of medical care

### Description:

You would like to be better accommodated for your Gender Dysphoria by having Electrolysis.

### Response:

Unfortunately, Electrolysis is not medically indicated.

# Suffolk County Sheriff's Department

## Grievance Form

FT

TODAY'S DATE: 10-23-19 DATE / TIME INCIDENT: 10-23-19 8:10am LOCATION OF INCIDENT: 1-4-2HOUSING UNIT: 1-4-2 NAME: James Bennett Werra BOOKING #: 1902435

**Per Policy S491, your grievance will be returned if you do not indicate with whom you have attempted to resolve this issue.**

☐ **Emergency** Check this box only if your grievance involves an issue for which the delay in resolution may cause a substantial risk of personal injury or other damages.

Describe the grievance, be specific, include names and dates
The black LT. Bald with glasses entered the 1-4-2 while I was on rec time I was asking someone if I could take a shower because the cops didn't have my soap because the LT. told me to go all the way calling me "th. Noli Min". He continued to call me a nigger and told me to write a grievance saying things like "the fuck has this world come too". I told him that he was being an asshole and that I would write a grievance on him. It is another example of how I'm not being treated. He should be and that it's blatant discrimination. None of the other women get harassed by cops or called by a different gender.

**SUGGESTED REMEDY:** This LT. Needs to be reprimanded and educated on how to treat people. He told me to write a grievance because he thinks he can treat people any way without consequences. He Needs to know that this is not true.

Inmate signature: James Werra Date: 10-23-19

**DO NOT WRITE BELOW THIS LINE**

Report Number: <u>910855</u>	Decision: <input checked="" type="checkbox"/> RETURNED	COMMENTS (IF REFERRED, specify to whom and why):
Date Received: <u>10-28-19</u>	<input type="checkbox"/> DENIED	
Appeal Date: _____	<input type="checkbox"/> RESOLVED	
	<input type="checkbox"/> REFERRED	
REASON(S) FOR DECISION: <u>For the Sgt. McGee: All staff has been trained on how to respond and interact and respect you as an inmate.</u>		

Institutional Grievance Coordinator: \_\_\_\_\_

Date: 10/28/19

You may appeal the decision of the IGC to the Superintendent within (10) dates if the decision. Only the official Inmate Grievance Appeal Form will be accepted. The Superintendent's decision is final.



**Suffolk County Sheriff's Department  
Grievance Form**

TODAY'S DATE: 7-24-19 DATE / TIME INCIDENT: 7:30 LOCATION OF INCIDENT: 1-8-2

HOUSING UNIT: 1-8-2 NAME: James Bernhardt-Welch BOOKING #: 1902435

**Per Policy S491, your grievance will be returned if you do not indicate with whom you have attempted to resolve this issue.**

☒ **Emergency** Check this box only if your grievance involves an issue for which the delay in resolution may cause a substantial risk of personal injury or other damages.

**Describe the grievance, be specific, include names and dates**

My Prison rights are being violated because I'm a high Potential Risk of being a victim of sexual abuse to being housed in a small in size. My Age and the fact that I've already been a victim of rape in Bristol County. I'm being housed with people who are high Potential Predator Due to their sex crimes. Also My Prison rights are being violated because I've reported being Sexual Assaulted in a previous Jail and never seen the Prison coordinator. I have mentioned many times that I feel extremely uncomfortable being housed ~~in~~ on this unit to Mental health and my caseworker and women's programming.

**SUGGESTED REMEDY:** I would like to go to the female unit, see classification and see the prison coordinator.

Inmate signature James Bernhardt-Welch Date 7-24-19

**DO NOT WRITE BELOW THIS LINE**

Report Number: <u>G190551</u>	Decision:	<input type="checkbox"/> RETURNED	COMMENTS (IF REFERRED, specify to whom and why):
Date Received: <u>7/30/19</u>		<input type="checkbox"/> DENIED	
Appeal Date: _____		<input checked="" type="checkbox"/> RESOLVED	
		<input type="checkbox"/> REFERRED	
REASON(S) FOR DECISION: <u>The incident in Bristol is still being investigated. You are on a house arrest status. You will be attending program with the females.</u>			

Institutional Grievance Coordinator: [Signature]

Date: 7-30-19

You may appeal the decision of the IGC to the Superintendent within (10) dates if the decision. Only the official Inmate Grievance Appeal Form will be accepted. The Superintendent's decision is final.



**Suffolk County Sheriff's Department**  
**Grievance Form**

TODAY'S DATE: 6-21-19 DATE / TIME INCIDENT: 6-21-19 LOCATION OF INCIDENT: 1-8-2  
HOUSING UNIT: 1-8-2 NAME: James Bennett Werra BOOKING #: 1902435

Per Policy S491, your grievance will be returned if you do not indicate with whom you have attempted to resolve this issue.

☐ Emergency Check this box only if your grievance involves an issue for which the delay in resolution may cause a substantial risk of personal injury or other damages.

Describe the grievance, be specific, include names and dates

I REQUESTED TO MOVE TO THE FEMALE UNIT through my case worker, but she said I needed to ask the superintendant. so I wrote the superintendant over two weeks ago and received no response.

I also wrote a letter to MAJOR THOMAS and requested to be moved at my last classification hearing.

SUGGESTED REMEDY: HEAR A RESPONSE FROM THE SUPERINTENDANT SO I CAN MOVE TO A FEMALE UNIT.  
THANK YOU.

Inmate signature: James Bennett Werra Date: 6-21-19

**DO NOT WRITE BELOW THIS LINE**

Report Number: 9190447  
Date Received: 6-24-19  
Appeal Date: \_\_\_\_\_

Decision:

- ☐ RETURNED  
☒ DENIED  
☐ RESOLVED  
☐ REFERRED

COMMENTS (IF REFERRED, specify to whom and why):

REASON(S) FOR DECISION:

You will not move to a female unit at this time. You may participate in the transgender support group.

Institutional Grievance Coordinator: Mitchell

Date: 6-26-19

You may appeal the decision of the IGC to the Superintendent within (10) dates if the decision. Only the official Inmate Grievance Appeal Form will be accepted. The Superintendent's decision is final.



Suffolk County Sheriff's Department  
Grievance Form

PT

TODAY'S DATE: 9-23-19 DATE / TIME INCIDENT: 9-16-19 to 9-20-19 LOCATION OF INCIDENT: 1-5-1 / women's programs

HOUSING UNIT: 1-5-1 NAME: James Barnett-Werra BOOKING #: 1902435

Per Policy S491, your grievance will be returned if you do not indicate with whom you have attempted to resolve this issue.

☐ Emergency Check this box only if your grievance involves an issue for which the delay in resolution may cause a substantial risk of personal injury or other damages.

Describe the grievance, be specific, include names and dates

On 9-17-19 Christina Rucio came to talk to me on 1-5-1 unit to explain why I was taken off the women's programs list. She told me the reason why is because of a disciplinary report I was given on 9-5-19. She said that I would lose my program privileges for the week of 9-16-19 - 9-20-19. I attended programs today on 9-23-19 and was told that the other inmate involved in my disciplinary report did not lose her program privileges but still received the 48 hour restricted movement. It is not fair to punish me twice with 48 hour restricted movement and a week of lost programs and the other inmate was not. This is blatant discrimination against me why am I being treated differently than the other women involved in the disciplinary report.

SUGGESTED REMEDY: I want to be housed on a women's unit to avoid further discrimination. I want to be treated the same as all other women. I want to be able to attend more women's programs.

Inmate signature: James Barnett-Werra Date: 9-23-19

DO NOT WRITE BELOW THIS LINE

Report Number: <u>4190751</u>	Decision:	<input type="checkbox"/> RETURNED	COMMENTS (IF REFERRED, specify to whom and why):
Date Received: <u>10-2-19</u>		<input checked="" type="checkbox"/> DENIED	
Appeal Date: _____		<input type="checkbox"/> RESOLVED	
		<input type="checkbox"/> REFERRED	
REASON(S) FOR DECISION: <u>DETAINER spoke to you and the other detainees about the incident.</u>			

Institutional Grievance Coordinator: [Signature]

Date: 10/8/19

You may appeal the decision of the IGC to the Superintendent within (10) dates if the decision. Only the official Inmate Grievance Appeal Form will be accepted. The Superintendent's decision is final.



**S491**  
**3 pt G**

## SUFFOLK COUNTY SHERIFF'S DEPARTMENT INMATE GRIEVANCE APPEAL FORM

The Grievant has the right to appeal the decision of the Inmate Grievance Coordinator, using only this form, within ten (10) working days of receipt of the decision.

Once the appeal form is completed it shall be forwarded to the Superintendent, along with a copy of the grievance/decision. The Grievant should maintain a copy of the appeal and grievance for their own record.

Inmate's name JAMES BENNETT WELLS I.D.# 1402435 Date sent: 7/9/19

Reason for Appeal: Appealing Grievance # G190484 Asking for  
better Accommodation for my gender dysphoria. Electrolysis  
is in fact medically indicated because it has to get done before  
someone can move forward with sex reassignment surgery.

Remedy: I would like to have electrolysis work done as the  
DOL does for people with gender dysphoria. Please and  
thank you

Jamel Bennett Wells  
Grievant Signature

7/9/19  
Date

.....  
BELOW TO BE COMPLETED BY THE SUPERINTENDENT OR DESIGNEE  
.....

Date Received: 7/15/19 Grievance # G190484

Decision Resolved

Reason(s) Please forward this request to Nephew  
they will be medical contractor and handle  
such work.

[Signature]  
Superintendent/desinee

8/1/19  
Date

## SUFFOLK COUNTY SHERIFF'S DEPARTMENT INMATE GRIEVANCE APPEAL FORM

The Grievant has the right to appeal the decision of the Inmate Grievance Coordinator, using only this form, within ten (10) working days of receipt of the decision.

Once the appeal form is completed it shall be forwarded to the Superintendent, along with a copy of the grievance/decision. The Grievant should maintain a copy of the appeal and grievance for their own record.

Inmate's name JAMES BENNETT-WELLS I.D.# 1402435 Date sent: 7/13/19

Reason for Appeal: According to the New Criminal Reform Act  
and Senate bill 2402 I am supposed to be given the  
opportunity to be housed on a female unit Due to my gender

I Don't want to be housed on a male unit because it violates my  
Constitutional Right amongst other rights to keep me from discrimination.

Remedy:

I need to be housed on a female unit because I am a  
female and it is my right to be treated as another  
woman and not be discriminated against please and thank you.

James Bennett-Wells  
Grievant Signature

7/13/19  
Date

.....  
**BELOW TO BE COMPLETED BY THE SUPERINTENDENT OR DESIGNEE**  
.....

Date Received: 7/19/19

Grievance # 6190447

Decision Resolved

Reason(s) Mr Bennett you said I have spoken about  
this at work before. You are allowed a free in your  
cell, you should also have access to the library and  
and you should program with the other  
inmates.

[Signature]  
Superintendent/desinee

8/18/19  
Date

## SUFFOLK COUNTY SHERIFF'S DEPARTMENT INMATE GRIEVANCE APPEAL FORM

The Grievant has the right to appeal the decision of the Inmate Grievance Coordinator, using only this form, within ten (10) working days of receipt of the decision.

Once the appeal form is completed it shall be forwarded to the Superintendent, along with a copy of the grievance/decision. The Grievant should maintain a copy of the appeal and grievance for their own record.

Inmate's name James Bennett-Webb I.D.# 1402435 Date sent: 7/13/2011

Reason for Appeal: My grievance decision given to me about the library  
was in correct. Inmates on 1-8-2 unit Do Not have Access to the library  
in the 3 building like everyone else we only get access to a little room

on the 5th floor once a week on Wednesday nights and this room contains  
law books and very few of your books.

Remedy: we would like to be treated equal and have access to the real

library in the 3 building it is not a safety issue if the female units get  
to go there. This is unfair and violates our Equal Protection clause and

Discriminates against us because we are a protective unit. We should be  
given 1 hour a week to go to the building library and keep our other 4 days a week to the 5th floor  
room. We could go with 1-5-2 unit just like we go to the yard together.

James Bennett-Webb

Grievant Signature

7/13/2011

Date

### BELOW TO BE COMPLETED BY THE SUPERINTENDENT OR DESIGNEE

Date Received: 7/9/11

Grievance # G 190446 - G 190474

Decision D. C. / Rejected

Reason(s) I have been to the library  
on the 5th floor you are not able to go  
to the library in the 3 building. Please allow

The female units

Superintendent/desinee

8/1/11

Date

I have been to the library

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JENNAYA BENNETT WERRA, a/k/a  
JAMES BENNETT WERRA,

Plaintiff,

v.

STEVEN TOMPKINS, YOLANDA SMITH,  
ZEZINHA MITCHELL, JENNIFER  
SULLIVAN, CHRISTINA RUCCIO, and  
NAPHCARE,

Defendants.

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C.A. No. 20-10017-ADB

ORDER

BURROUGHS, D.J.

1. Plaintiff's Motion to Proceed *In Forma Pauperis* (ECF No. 2) is ALLOWED. Pursuant to 28 U.S.C. §1915(b)(1), the Court assesses an initial partial filing fee of \$38.63. The remainder of the fee, \$311.37, shall be collected in accordance with 28 U.S.C. §1915(b)(2).

2. The Clerk shall issue summonses for service of the complaint and shall send the summonses, a copy of the complaint, and this Order to the plaintiff, who must serve the defendants with these documents in accordance with Federal Rule of Civil Procedure 4(m).

3. The plaintiff may elect to have service made by the United States Marshals Service. If directed by the plaintiff to do so, the United States Marshals Service shall serve the above-referenced documents and this Order upon the defendants, in the manner directed by the plaintiff, with all costs of service to be advanced by the United States. It is plaintiff's responsibility to provide the United States Marshal Service with all necessary paperwork and service information. Notwithstanding Fed. R. Civ. P. 4(m) and Local Rule 4.1, the plaintiff shall have 90 days from the

date of this Order to complete service.

**So Ordered.**

/s/ Allison D. Burroughs  
**ALLISON D. BURROUGHS**  
United States District Judge

Dated: February 5, 2020

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JENNAYA BENNETT WERRA,  
a/k/a James Bennett Werra,  
Plaintiff,

v.

STEVEN TOMPKINS, et al.  
Defendants.

CIVIL ACTION  
NO 20-10017-ADB

NOTICE FOR PAYMENT OF PRISONER FILING FEE

To: THE TREASURER'S OFFICE AT Suffolk County House of Correction AND TO ANY TREASURER'S OFFICE  
AT FACILITIES TO WHICH THE INMATE NAMED ABOVE MAY BE TRANSFERRED

PLEASE TAKE NOTICE THAT:

Plaintiff, a prisoner proceeding pro se and *in forma pauperis*, is obligated to pay the statutory filing fee of \$350.00 for this action. See 28 U.S.C. § 1915(b)(1).

- ☒ Pursuant to 28 U.S.C. § 1915(b)(1), plaintiff has been assessed the following:
- ☐ Full filing fee of \$\_\_\_\_\_ from available funds.
  - ☒ An initial partial filing fee of: \$ 38.63 within ten (10) business days of receipt of this notice.
  - ☒ Remainder of fee [\$ 311.37] to be paid in accordance with 28 U.S.C. § 1915(b)(2) in monthly payments of 20% of the preceding month's income credited to the prisoner's account each time the amount in the account exceeds \$10.00 until the filing fee is paid.
- ☐ Plaintiff has been without funds for six months and is currently without funds. Pursuant to 28 U.S.C. § 1915(b)(2), plaintiff is obligated to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account until the statutory filing fee of \$ 350.00 has been paid in full.

The Treasurer's Office at the institution designated above is required to send to the Clerk of the Court the initial partial filing fee (if assessed) and monthly payments from plaintiff's prison trust account (or institutional equivalent) each time the amount in the prisoner's account exceeds \$10.00. 28 U.S.C. § 1915(b)(2). The monthly payments shall be sent on the last day of each month, beginning in the month subsequent to the date of this notice. The monthly payments shall continue until the balance of \$ 350.00 is paid in full.

The prisoner's name and case number must be noted on each remittance. If a single check is provided in payment of filing fees for more than one prisoner, the amount to be allocated to each prisoner and case must be noted. All checks should be made payable to the "Clerk, U. S. District Court" and transmitted to:

U. S. District Court  
Cashier - Suite 2300  
1 Courthouse Way  
Boston, MA 02210

ROBERT M. FARRELL  
CLERK OF COURT

February 5, 2020  
Date

By: /s/ Karen Folan  
Deputy Clerk

cc: Plaintiff